

Applic. No. 10/629,925

Amdt. dated September 2, 2004

Reply to Office action of June 2, 2004

Remarks/Arguments:

Reconsideration of the application is requested.

Claims 1-21 remain in the application.

In item 2 on page 2 of the Office action, claims 1-5, 8-10, and 18-20 have been rejected as being obvious over Takeyama (JP 4307096) in view of Rhode et al. (U.S. Patent No. 6,374,644) (hereinafter "Rhode") under 35 U.S.C. § 103.

As will be explained below, it is believed that the claims were patentable over the cited art in their original form and the claims have, therefore, not been amended to overcome the references.

Before discussing the prior art in detail, it is believed that a brief review of the invention as claimed, would be helpful.

Claims 1, 18, 19, and 20 call for, *inter alia*:

at least two air-permeable surfaces holding in a stationary manner within the drum a batch of laundry to be dried the surfaces being disposed at a distance one above another in an operating state thereof, and having a front side defining an

Applic. No. 10/629,925

Amdt. dated September 2, 2004

Reply to Office action of June 2, 2004

access orifice and a side defining at least one further access orifice.

The Takeyama reference discloses a clothes holding rack including two side lattices (52), a bottom lattice (51), and a rear lattice (53). Hinges allow the side lattices and rear lattice to be folded into one plate by way of the hinges. In the erected state, a lattice insert (9) is disposed above the bottom lattice (51).

The Rhode reference discloses an equipment washer including two opposed baskets (18a and 18b), the baskets share a common floor (20) and are open-latticed sided containers each having a hinged cover (22) mounted on hinges. The baskets are rotated relative to the tub.

It is respectfully noted that in item 3 of the Office action, the Examiner has incorrectly stated that Rhode discloses that supplying a top to a drying rack will help to ensure that articles being dried will remain inside the rack. The Rhode reference pertains to an equipment washer that rotates with respect to a washing tub. Contrary to the Examiner's comments, the Rhode reference does not pertain to a drying rack at all. Therefore, the Examiner's comments pertaining to the motivation for combining the references is not accurate.

Applic. No. 10/629,925

Amdt. dated September 2, 2004

Reply to Office action of June 2, 2004

Furthermore, it is a requirement for a *prima facie* case of obviousness, that the prior art references must teach or suggest all the claim limitations.

The references do not show or suggest at least two air-permeable surfaces holding in a stationary manner within the drum a batch of laundry to be dried the surfaces being disposed at a distance one above another in an operating state thereof, and having a front side defining an access orifice and a side defining at least one further access orifice, as recited in claims 1, 18, 19, and 20 of the instant application.

The Takeyama reference discloses a clothes holding rack including side lattices and a rear lattice. The side lattices along with the rear lattice surround three sides of the lattice bottom (51) and three sides of the lattice insert (9). Therefore, Takeyama does not disclose at least two air-permeable surfaces each having a front side defining an access orifice and a side defining at least one further access orifice. This is contrary to the invention of the instant application as claimed, in which at least two air-permeable surfaces hold in a stationary manner within the drum a batch of laundry to be dried, the surfaces being disposed at a

Applic. No. 10/629,925

Amdt. dated September 2, 2004

Reply to Office action of June 2, 2004

distance one above another in an operating state thereof, and have a front side defining an access orifice and a side defining at least one further access orifice.

The Rhode reference discloses an equipment washer including two opposed baskets (18a and 18b), the baskets share a common floor (20) and are open-latticed sided containers each having a hinged cover (22) mounted on hinges. Therefore, Rhode does not disclose at least two air-permeable surfaces each having a front side defining an access orifice and a side defining at least one further access orifice. This is contrary to the invention of the instant application as claimed, in which at least two air-permeable surfaces hold in a stationary manner within the drum a batch of laundry to be dried, the surfaces being disposed at a distance one above another in an operating state thereof, and have a front side defining an access orifice and a side defining at least one further access orifice.

The references applied by the Examiner do not teach or suggest all the claim limitations. Therefore, it is believed that the Examiner has not produced a *prima facie* case of obviousness.

A critical step in analyzing the patentability of claims pursuant to 35 U.S.C. § 103 is casting the mind back to the

Applic. No. 10/629,925
Amdt. dated September 2, 2004
Reply to Office action of June 2, 2004

time of invention, to consider the thinking of one of ordinary skill in the art, guided only by the prior art references and the then-accepted wisdom in the field. See In re Dembiczak, 175 F.3d 994, 999, 50 USPQ2d 1614,1617 (Fed. Cir. 1999). Close adherence to this methodology is especially important in cases where the very ease with which the invention can be understood may prompt one "to fall victim to the insidious effect of a hindsight syndrome wherein that which only the invention taught is used against its teacher." Id. (quoting W.L. Gore & Assocs., Inc. v. Garlock, Inc., 721 F.2d 1540, 1553, 220 USPQ 303, 313 (Fed. Cir. 1983)).

Most if not all inventions arise from a combination of old elements. See In re Rouffet, 149 F.3d 1350, 1357, 47 USPQ2d 1453,1457 (Fed. Cir. 1998). Thus, every element of a claimed invention may often be found in the prior art. See id. However, identification in the prior art of each individual part claimed is insufficient to defeat patentability of the whole claimed invention. See id. Rather, to establish obviousness based on a combination of the elements disclosed in the prior art, there must be some motivation, suggestion or teaching of the desirability of making the specific combination that was made by the appellant. See In re Dance, 160 F.3d 1339, 1343, 48 USPQ2d 163.5, 1637 (Fed. Cir. 1998);

Applic. No. 10/629,925

Amdt. dated September 2, 2004

Reply to Office action of June 2, 2004

In re Gordon, 733 F.2d 900, 902, 221 USPQ 1125,1127 (Fed. Cir. 1984).

The motivation, suggestion or teaching may come explicitly from statements in the prior art, the knowledge of one of ordinary skill in the art, or, in some cases the nature of the problem to be solved. See Dembiczak, 175 F.3d at 999, 50 USPQ2d at 1617. In addition, the teaching, motivation or suggestion may be implicit from the prior art as a whole, rather than expressly stated in the references. See WMS Gaming, Inc. v. International Game Tech., 184 F.3d 1339, 1355, 51 USPQ2d 1385, 1397 (Fed. Cir. 1999). The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art. See In re Keller, 642 F.2d 413, 425, 208 USPQ 871, 881 (CCPA 1981) (and cases cited therein). Whether the examiner relies on an express or an implicit showing, the examiner must provide particular findings related thereto. See Dembiczak, 175 F.3d at 999, 50 USPQ2d at 1617. Broad conclusory statements standing alone are not "evidence." Id. When an examiner relies on general knowledge to negate patentability, that knowledge must be articulated and placed on the record. See In re Lee, 277 F.3d 1338, 1342-45, 61 USPQ2d 1430, 1433-35 (Fed. Cir. 2002).

Applic. No. 10/629,925

Amdt. dated September 2, 2004

Reply to Office action of June 2, 2004

Upon evaluation of the examiner's comments, it is respectfully believed that the evidence adduced by the examiner is insufficient to establish a prima facie case of obviousness with respect to the claims. Accordingly, the examiner is requested to withdraw the rejection.

Since claim 1 is believed to be allowable, dependent claims 1-5, 8-10, and 18-20 are believed to be allowable as well.

It is appreciatively noted from item 4 of the Office action, that claim 21 is allowed.

It is appreciatively noted from item 5 of the Office action, that claims 6, 7, and 11-17 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The claims have not been amended as indicated by the Examiner, as the claims are believed to be patentable in their existing form.

It is accordingly believed to be clear that none of the references, whether taken alone or in any combination, either show or suggest the features of claims 1, 18, 19, or 20. Claims 1, 18, 19, and 20 are, therefore, believed to be patentable over the art and since all of the dependent claims

Applic. No. 10/629,925
Amdt. dated September 2, 2004
Reply to Office action of June 2, 2004

are ultimately dependent on claim 1, they are believed to be patentable as well.

In view of the foregoing, reconsideration and allowance of claims 1-20 are solicited.

In the event the Examiner should still find any of the claims to be unpatentable, counsel respectfully requests a telephone call so that, if possible, patentable language can be worked out.

If an extension of time for this paper is required, petition for extension is herewith made.

Please charge any other fees which might be due with respect to Sections 1.16 and 1.17 to the Deposit Account of Lerner & Greenberg P.A., No. 12-1099.

Respectfully submitted,



For Applicant(s)

Alfred K. Dassler
52,794

AKD:cgm

September 2, 2004

Lerner and Greenberg, P.A.
Post Office Box 2480
Hollywood, FL 33022-2480
Tel: (954) 925-1100
Fax: (954) 925-1101